

**NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.**
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

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SEP -3 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2010-0182-PR
)	DEPARTMENT A
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
LeROY JAMES MICHAEL,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR39880

Honorable Richard Nichols, Judge

REVIEW GRANTED; RELIEF DENIED

Barbara LaWall, Pima County Attorney
By Jacob R. Lines

Tucson
Attorneys for Respondent

LeRoy Michael

Hinton, OK
In Propria Persona

ESPINOSA, Judge.

¶1 Petitioner Leroy Michael seeks review of the trial court's order entered on May 14, 2010, summarily dismissing the latest in a series of post-conviction proceedings Michael has instituted pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb the

court's ruling unless we find it clearly has abused its discretion. *State v. McCall*, 160 Ariz. 119, 129, 770 P.2d 1165, 1175 (1989).

¶2 In 1992, while driving on a suspended license, with a blood alcohol concentration of .30, and with prior convictions for driving while intoxicated, Michael drove his pickup truck at approximately sixty miles per hour into the rear of another vehicle that was stopped for a traffic light. The impact killed one of the second vehicle's four passengers and seriously injured another. A jury subsequently found Michael guilty of second-degree murder and four counts of aggravated assault, and the trial court sentenced him to prison for a combined total of thirty-five years.

¶3 In the fifteen years since this court affirmed his convictions and sentences on appeal, *see State v. Michael*, No. 2 CA-CR 93-0366 (memorandum decision filed May 9, 1995), Michael has repeatedly sought post-conviction relief pursuant to Rule 32. The present petition for review is the fifth he has filed in this court, preceded by *State v. Michael*, No. 2 CA-CR 96-0227-PR (memorandum decision filed Mar. 20, 1997); *State v. Michael*, No. 2 CA-CR 99-0319-PR (memorandum decision filed Jan. 11, 2000); *State v. Michael*, No. 2 CA-CR 2001-0484-PR (memorandum decision filed Mar. 28, 2002); and *State v. Michael*, No. 2 CA-CR 2005-0033-PR (decision order filed July 29, 2005).

¶4 Michael filed his latest notice of and petition for post-conviction relief simultaneously on February 26, 2010. In the petition, he once again sought to challenge his four convictions for aggravated assault and his attendant ten- and fifteen-year sentences, which the trial court ordered served concurrently with each other but consecutively to his twenty-year sentence for second-degree murder. As our previous

memorandum decisions reflect, Michael already has brought repeated challenges to those convictions and his sentences. His claims plainly are precluded. *See* Ariz. R. Crim. P. 32.2; *see generally* *Stewart v. Smith*, 202 Ariz. 446, ¶ 11, 46 P.3d 1067, ¶ 11 (2002) (“Rule 32.2 is a rule of preclusion designed to limit those reviews, to prevent endless or nearly endless reviews of the same case in the same trial court.”).

¶5 In summarily dismissing Michael’s latest notice of post-conviction relief, the trial court correctly found he was “again rais[ing] issues of double jeopardy and consecutive sentences,” which had “in whole or in part been raised previously in petitions for post[-]conviction relief and on appeal.” Rule 32.2(b) expressly authorizes the summary dismissal of such a notice, and the court did not abuse its discretion.

¶6 Although we grant the petition for review, we deny relief.

/s/ Philip G. Espinosa

PHILIP G. ESPINOSA, Judge

CONCURRING:

/s/ Joseph W. Howard

JOSEPH W. HOWARD, Chief Judge

/s/ J. William Brammer, Jr.

J. WILLIAM BRAMMER, JR., Presiding Judge